

111TH CONGRESS
1ST SESSION

H. R. 3791

AN ACT

To amend sections 33 and 34 of the Federal Fire Prevention
and Control Act of 1974, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fire Grants Reauthor-
3 ization Act of 2009”.

4 **SEC. 2. ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM**
5 **REAUTHORIZATION.**

6 (a) IN GENERAL.—Section 33 of the Federal Fire
7 Prevention and Control Act of 1974 (15 U.S.C. 2229) is
8 amended to read as follows:

9 **“SEC. 33. FIREFIGHTER ASSISTANCE.**

10 “(a) ASSISTANCE PROGRAM.—

11 “(1) AUTHORITY.—In accordance with this sec-
12 tion, the Director may—

13 “(A) make grants on a competitive basis
14 directly to fire departments of a State, in con-
15 sultation with the chief executive of the State,
16 for the purpose of protecting the health and
17 safety of the public and firefighting personnel
18 throughout the Nation against fire and fire-re-
19 lated hazards;

20 “(B) make grants on a competitive basis
21 directly to State fire training academies, in con-
22 sultation with the chief executive of the State,
23 in accordance with paragraph (11)(C);

24 “(C) provide assistance for fire prevention
25 and firefighter safety research and development
26 programs and fire prevention or fire safety pro-

1 grams and activities in accordance with para-
2 graph (4); and

3 “(D) provide assistance for volunteer, non-
4 fire service EMS and rescue organizations for
5 the purpose of paragraph (3)(F).

6 “(2) ADMINISTRATIVE ASSISTANCE.—The Di-
7 rector shall establish specific criteria for the selec-
8 tion of recipients of assistance under this section
9 and shall provide grant-writing assistance to appli-
10 cants.

11 “(3) USE OF FIRE DEPARTMENT GRANT
12 FUNDS.—The Director may make a grant under
13 paragraph (1)(A) only if the applicant for the grant
14 agrees to use the grant funds for one or more of the
15 following purposes:

16 “(A) To hire additional firefighting per-
17 sonnel.

18 “(B) To train firefighting personnel in
19 firefighting, emergency medical services and
20 other emergency response (including response
21 to a terrorism incident or use of a weapon of
22 mass destruction), arson prevention and detec-
23 tion, maritime firefighting, or the handling of
24 hazardous materials or to train firefighting per-

1 sonnel to provide any of the training described
2 in this subparagraph.

3 “(C) To fund the creation of rapid inter-
4 vention teams to protect firefighting personnel
5 at the scenes of fires and other emergencies.

6 “(D) To certify fire and building inspec-
7 tors employed by a fire department or serving
8 as a volunteer building inspector with a fire de-
9 partment.

10 “(E) To establish wellness and fitness pro-
11 grams for firefighting personnel to ensure that
12 the firefighting personnel can carry out their
13 duties, including programs dedicated to raising
14 awareness of, and prevention of, job-related
15 mental health issues.

16 “(F) To fund emergency medical services
17 provided by fire departments and volunteer,
18 non-fire service EMS and rescue organizations.

19 “(G) To acquire additional firefighting ve-
20 hicles, including fire trucks.

21 “(H) To acquire additional firefighting
22 equipment, including equipment for communica-
23 tions, monitoring, and response to a terrorism
24 incident or use of a weapon of mass destruc-
25 tion.

1 “(I) To acquire personal protective equip-
2 ment required for firefighting personnel by the
3 Occupational Safety and Health Administration
4 and other personal protective equipment for
5 firefighting personnel, including protective
6 equipment to respond to a terrorism incident or
7 the use of a weapon of mass destruction.

8 “(J) To modify fire stations, fire training
9 facilities, and other facilities to protect the
10 health and safety of firefighting personnel.

11 “(K) To enforce fire codes and standards.

12 “(L) To fund fire prevention programs.

13 “(M) To educate the public about arson
14 prevention and detection.

15 “(N) To provide incentives for the recruit-
16 ment and retention of volunteer firefighting
17 personnel for volunteer firefighting departments
18 and other firefighting departments that utilize
19 volunteers.

20 “(O) To acquire equipment designed to re-
21 duce the amount of water used in firefighting
22 or training firefighting personnel.

23 “(4) FIRE PREVENTION AND FIREFIGHTER
24 SAFETY RESEARCH AND DEVELOPMENT PRO-
25 GRAMS.—

1 “(A) IN GENERAL.—For each fiscal year,
2 the Director shall use not less than 10 percent
3 of the funds made available under subsection
4 (e)—

5 “(i) to make grants to fire depart-
6 ments for the purpose described in para-
7 graph (3)(L);

8 “(ii) to make grants to, or enter into
9 contracts or cooperative agreements with,
10 national, State, local, or community orga-
11 nizations that are not fire departments
12 but—

13 “(I) that are recognized for their
14 experience and expertise with respect
15 to fire prevention or fire safety pro-
16 grams and activities and that partner
17 with fire departments, for the purpose
18 of carrying out such programs and ac-
19 tivities;

20 “(II) engage in fire- and life
21 safety-related activities as a primary
22 purpose or function, for the purpose
23 of carrying out fire prevention or fire
24 safety programs and activities; or

1 “(III) that are recognized for
2 their experience and expertise with re-
3 spect to firefighter research and devel-
4 opment programs, for the purpose of
5 carrying out research on fire preven-
6 tion or fire safety programs and ac-
7 tivities or to improve firefighter health
8 and life safety; and

9 “(iii) if the Director determines that
10 it is necessary, to make grants or enter
11 into contracts in accordance with sub-
12 section (c).

13 “(B) PRIORITY.—In selecting organiza-
14 tions described in subparagraph (A)(ii) to re-
15 ceive assistance under this paragraph, the Di-
16 rector shall give priority to organizations that
17 focus on prevention of injuries to high risk
18 groups from fire, as well as research programs
19 that demonstrate the potential to improve fire-
20 fighter safety.

21 “(C) GRANT LIMITATION.—A grant under
22 this paragraph shall not exceed \$1,500,000 for
23 a fiscal year.

24 “(D) LIMITATION.—None of the funds
25 made available under this paragraph may be

1 provided to the Association of Community Or-
2 ganizations for Reform Now (ACORN) or any
3 of its affiliates, subsidiaries, or allied organiza-
4 tions.

5 “(5) APPLICATION.—The Director may provide
6 assistance to a fire department or organization (in-
7 cluding a State fire training academy) under this
8 subsection only if the fire department or organiza-
9 tion seeking the assistance submits to the Director
10 an application that meets the following require-
11 ments:

12 “(A) FORM.—The application shall be in
13 such form as the Director may require.

14 “(B) INFORMATION.—The application shall
15 include the following information:

16 “(i) Information that demonstrates
17 the financial need of the applicant for the
18 assistance for which applied.

19 “(ii) An analysis of the costs and ben-
20 efits, with respect to public safety, of the
21 use of the assistance.

22 “(iii) An agreement to provide infor-
23 mation to the national fire incident report-
24 ing system for the period covered by the
25 assistance.

1 “(iv) A list of other sources of Federal
2 funding received by the applicant.

3 “(v) Any other information that the
4 Director may require.

5 “(C) UNNECESSARY DUPLICATION.—The
6 Director, in coordination with the Secretary of
7 Homeland Security, shall use the list provided
8 under subparagraph (B)(iv) to prevent the un-
9 necessary duplication of grant funds.

10 “(6) MATCHING REQUIREMENT.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graphs (B) and (C) and paragraph (8), the Di-
13 rector may provide assistance under this sub-
14 section only if the applicant for such assistance
15 agrees to match 10 percent of such assistance
16 for any fiscal year with an equal amount of
17 non-Federal funds.

18 “(B) REQUIREMENT FOR SMALL COMMU-
19 NITY ORGANIZATIONS.—In the case of an appli-
20 cant whose personnel serve jurisdictions of
21 20,000 or fewer residents, the percent applied
22 under the matching requirement of subpara-
23 graph (A) shall be 5 percent.

24 “(C) FIRE PREVENTION AND FIREFIGHTER
25 SAFETY GRANTS EXCEPTION.—There shall be

1 no matching requirement for a grant described
2 in paragraph (4).

3 “(7) MAINTENANCE OF EXPENDITURES.—Sub-
4 ject to paragraph (8), the Director may provide as-
5 sistance under this subsection only if the applicant
6 for the assistance agrees to maintain in the fiscal
7 year for which the assistance will be received the ap-
8 plicant’s aggregate expenditures for the uses de-
9 scribed in paragraph (3) or (4) at or above 80 per-
10 cent of the average level of such expenditures in the
11 2 fiscal years preceding the fiscal year for which the
12 assistance will be received.

13 “(8) ECONOMIC HARDSHIP WAIVER.—

14 “(A) IN GENERAL.—In exceptional cir-
15 cumstances, the Director may waive or reduce
16 the matching requirement under paragraph (6)
17 and the maintenance of expenditures require-
18 ment under paragraph (7) for applicants facing
19 demonstrated economic hardship.

20 “(B) CRITERIA DEVELOPMENT.—The cri-
21 teria under which the Director may waive or re-
22 duce such requirements shall be developed in
23 consultation with individuals who are—

24 “(i) recognized for expertise in fire-
25 fighting, emergency medical services pro-

1 vided by fire services, or the economic af-
2 fairs of State and local governments; and

3 “(ii) members of national fire service
4 organizations or national organizations
5 representing the interests of State and
6 local governments.

7 “(C) PUBLIC AVAILABILITY.—The Director
8 shall make the criteria developed under sub-
9 paragraph (B) publicly available.

10 “(9) VARIETY OF FIRE DEPARTMENT GRANT
11 RECIPIENTS.—

12 “(A) IN GENERAL.—Of the amounts made
13 available under subsection (e), the Director
14 shall ensure that grants under paragraph
15 (1)(A) for a fiscal year are allocated, to the ex-
16 tent that there are eligible applicants to carry
17 out the activities under paragraph (3), as fol-
18 lows:

19 “(i) 25 percent shall be made avail-
20 able to career fire departments.

21 “(ii) 25 percent shall be made avail-
22 able to volunteer fire departments.

23 “(iii) 25 percent shall be made avail-
24 able to combination fire departments.

25 “(B) EVALUATION CRITERIA.—

1 “(i) IN GENERAL.—In awarding
2 grants under paragraph (1)(A), the Direc-
3 tor shall, within each category of appli-
4 cants under subparagraph (A), consider a
5 broad range of factors important to the ap-
6 plicant’s ability to respond to fires and re-
7 lated hazards, such as population served,
8 geographic response area, hazard vulner-
9 ability, call volume, financial situation in-
10 cluding unemployment rate of the area
11 being served, and need for training or
12 equipment.

13 “(ii) HIGH POPULATION AND INCI-
14 DENT RESPONSE.—In considering such
15 factors under clause (i), applicants serving
16 areas with high population and with a high
17 number of incidents requiring a response
18 shall receive a higher level of consideration.

19 “(iii) PROHIBITED BASIS FOR DE-
20 NIAL.—In considering such factors under
21 clause (i), the Director may not deny a
22 grant to an applicant solely based on such
23 applicant failing to demonstrate that the
24 grant will be used to prepare for or re-

1 spond to a terrorism incident or use of a
2 weapon of mass destruction.

3 “(C) REMAINDER.—Of the amounts made
4 available under subsection (e) that are not allo-
5 cated for use and awarded under subparagraph
6 (A) or designated for use under any other pro-
7 vision of this section, the Director shall provide
8 for an open competition for grants among ca-
9 reer fire departments, volunteer fire depart-
10 ments, and combination fire departments to
11 carry out the activities under paragraph (3).

12 “(10) REPORT TO THE DIRECTOR.—The Direc-
13 tor may provide assistance under this subsection
14 only if the applicant for the assistance agrees to sub-
15 mit to the Director a report, including a description
16 of how the assistance was used, with respect to each
17 fiscal year for which the assistance was received.

18 “(11) GRANT LIMITATIONS.—

19 “(A) RECIPIENT LIMITATIONS.—A grant
20 recipient under paragraph (1)(A)—

21 “(i) that serves a jurisdiction with
22 100,000 people or less may not receive
23 grants in excess of \$1,000,000 for any fis-
24 cal year;

1 “(ii) that serves a jurisdiction with
2 more than 100,000 people but less than
3 500,000 people may not receive grants in
4 excess of \$2,000,000 for any fiscal year;

5 “(iii) that serves a jurisdiction with
6 500,000 people or more but less than
7 1,000,000 people may not receive grants in
8 excess of \$3,000,000 for any fiscal year;

9 “(iv) that serves a jurisdiction with
10 1,000,000 people or more but less than
11 2,500,000 people may not receive grants in
12 excess of \$6,000,000 for any fiscal year;
13 and

14 “(v) that serves a jurisdiction with
15 2,500,000 people or more may not receive
16 grants in excess of \$9,000,000 for any fis-
17 cal year.

18 The Director may award grants in excess of the
19 limitations provided in clauses (i), (ii), (iii), and
20 (iv) if the Director determines that extraor-
21 dinary need for assistance by a jurisdiction war-
22 rants a waiver.

23 “(B) LIMITATION ON EXPENDITURES FOR
24 FIREFIGHTING VEHICLES.—Not more than 25
25 percent of the funds appropriated to provide

1 grants under this section for a fiscal year may
2 be used to assist grant recipients to purchase
3 vehicles, as authorized by paragraph (3)(G).

4 “(C) STATE FIRE TRAINING ACADEMIES.—

5 “(i) IN GENERAL.—In accordance
6 with clause (ii), the Director shall award
7 not more than 3 percent of the amounts
8 made available under subsection (e) for a
9 fiscal year for grants under this subsection
10 for State fire training academies.

11 “(ii) LIMITATION.—The Director
12 shall—

13 “(I) award not more than 1
14 grant under this subparagraph per
15 State in a fiscal year;

16 “(II) limit the amount of a grant
17 to a State fire training academy to
18 less than or equal to \$1,000,000 in
19 each fiscal year; and

20 “(III) ensure that any grant
21 awarded to a State fire training acad-
22 emy shall be used for the purposes de-
23 scribed in paragraphs 3(G), 3(H), or
24 3(I).

1 “(D) REQUIREMENTS FOR GRANTS FOR
2 EMERGENCY MEDICAL SERVICES.—The Director
3 shall award not more than 2 percent of the
4 amounts made available under subsection (e)
5 for a fiscal year to volunteer, non-fire service
6 EMS and rescue organizations for the purposes
7 described in paragraph (3)(F).

8 “(E) APPLICATION OF SELECTION CRI-
9 TERIA TO GRANT APPLICATIONS FROM VOLUN-
10 TEER, NON-FIRE SERVICE EMS AND RESCUE OR-
11 GANIZATIONS.—In reviewing applications sub-
12 mitted by volunteer, non-fire service EMS and
13 rescue organizations, the Director shall consider
14 the extent to which other sources of Federal
15 funding are available to provide the assistance
16 requested in such grant applications.

17 “(F) CONSENSUS STANDARDS.—

18 “(i) IN GENERAL.—Any grant
19 amounts used to obtain training under this
20 section shall be limited to training that
21 complies with applicable national voluntary
22 consensus standards (if applicable national
23 voluntary consensus standards have been
24 established), unless a waiver has been
25 granted under clause (ii).

1 “(ii) WAIVER.—

2 “(I) EXPLANATION FOR NON-
3 STANDARD TRAINING.—If an appli-
4 cant for a grant seeks to use the as-
5 sistance provided under the grant to
6 obtain training that does not meet or
7 exceed applicable voluntary consensus
8 standards, the applicant shall include
9 in the application an explanation of
10 why such training will serve the needs
11 of the applicant better than training
12 that does meet or exceed such stand-
13 ards.

14 “(II) PROCEDURES.—In making
15 a determination whether or not to
16 waive the requirement under clause (i)
17 with respect to a specific standard,
18 the Director shall, to the greatest ex-
19 tent practicable—

20 “(aa) consult with other
21 members of the fire services re-
22 garding the impact on fire de-
23 partments of the requirement to
24 meet or exceed the specific stand-
25 ard;

1 “(bb) take into consideration
2 the explanation provided by the
3 applicant under subclause (I);
4 and

5 “(cc) seek to minimize the
6 impact of the requirement to
7 meet or exceed the specific stand-
8 ard on the applicant, particularly
9 if meeting the standard would
10 impose additional costs.

11 “(III) ADDITIONAL REQUESTS.—
12 Applicants that apply for a grant
13 under the terms of subclause (I) may
14 include a second grant request in the
15 application to be considered by the
16 Director in the event that the Direc-
17 tor does not approve the primary
18 grant request on the grounds of the
19 training not meeting applicable vol-
20 untary consensus standards.

21 “(12) ELIGIBLE GRANTEE ON BEHALF OF
22 ALASKA NATIVE VILLAGES.—The Alaska Village Ini-
23 tiatives, a non-profit organization incorporated in
24 the State of Alaska, shall be considered an eligible

1 grantee for purposes of receiving assistance under
2 this section on behalf of Alaska Native villages.

3 “(13) ANNUAL MEETING.—The Director shall
4 convene an annual meeting of individuals who are
5 members of national fire service organizations and
6 are recognized for expertise in firefighting or emer-
7 gency medical services provided by fire services, and
8 who are not employees of the Federal Government,
9 for the purpose of recommending criteria for award-
10 ing grants under this section for the next fiscal year
11 and any necessary administrative changes to the
12 grant program.

13 “(14) GUIDELINES.—

14 “(A) IN GENERAL.—Each year, prior to
15 accepting any application for a grant under
16 each program under this section, the Director
17 shall publish in the Federal Register—

18 “(i) guidelines that describe the proc-
19 ess for applying for grants and the criteria
20 for awarding grants;

21 “(ii) an explanation of any differences
22 between the guidelines and the rec-
23 ommendations made pursuant to para-
24 graph (13); and

1 “(iii) the criteria developed under
2 paragraph (8) which the Director will use
3 to evaluate applicants for waivers from
4 program requirements.

5 “(B) SPECIFIC REQUIREMENT.—The cri-
6 teria for awarding grants under paragraph
7 (1)(A) shall include the extent to which the
8 grant would enhance the daily operations of the
9 applicant and the impact of such a grant on the
10 protection of lives and property.

11 “(15) PEER REVIEW.—The Director, after con-
12 sultation with national fire service organizations,
13 shall appoint fire service personnel to conduct peer
14 review of applications received under paragraph (5).
15 In making grants under this section, the Director
16 shall consider the results of such peer review evalua-
17 tions.

18 “(16) APPLICABILITY OF FEDERAL ADVISORY
19 COMMITTEE ACT.—The Federal Advisory Committee
20 Act (5 U.S.C. App.) shall not apply to activities
21 under paragraphs (13) and (15).

22 “(17) ACCOUNTING DETERMINATION.—Not-
23 withstanding any other provision of law, rule, regu-
24 lation, or guidance, for purposes of receiving assist-
25 ance under this section, equipment costs shall in-

1 clude all costs attributable to any design, purchase
2 of components, assembly, manufacture, and trans-
3 portation of equipment not otherwise commercially
4 available.

5 “(b) AUDITS.—A recipient of a grant under this sec-
6 tion shall be subject to audits to ensure that the grant
7 proceeds are expended for the intended purposes and that
8 the grant recipient complies with the requirements of
9 paragraphs (6) and (7) of subsection (a) unless the Direc-
10 tor has granted a waiver under subsection (a)(8).

11 “(c) FIRE SAFETY RESEARCH CENTERS.—

12 “(1) IN GENERAL.—The Director may make a
13 grant under subsection (a)(4)(A)(iii) to an institu-
14 tion of higher education, a national fire service orga-
15 nization, or a national fire safety organization to es-
16 tablish and operate a fire safety research center.

17 “(2) OBJECTIVES.—A grant received under this
18 subsection shall be used by such an institution or or-
19 ganization to advance significantly the Nation’s abil-
20 ity to reduce the number of fire-related deaths and
21 injuries among firefighters and the general public
22 through research, development, and technology
23 transfer activities.

24 “(3) LIMITATION.—The Director may establish
25 no more than 3 fire safety research centers. An in-

stitution of higher education, a national fire service organization, or a national fire safety organization may not directly receive a grant under this section for a fiscal year for more than 1 fire safety research center.

“(4) APPLICATION.—In order to be eligible to receive a fire safety research center grant, an institution of higher education, a national fire service organization, or a national fire safety organization shall submit to the Director an application that is in such form and contains such information and assurances as the Director may require.

“(5) GENERAL SELECTION CRITERIA.—The Director shall select each recipient of a grant under this subsection through a competitive process on the basis of the following:

“(A) The demonstrated research and extension resources available to the recipient to carry out the research, development, and technology transfer activities.

“(B) The capability of the recipient to provide leadership in making national contributions to fire safety.

“(C) The recipient’s ability to disseminate the results of fire safety research.

1 “(D) The strategic plan the recipient pro-
2 poses to carry out under the grant.

3 “(6) CONSIDERATION.—The Director shall give
4 special consideration under paragraph (5) to an ap-
5 plicant for a grant that consists of a partnership be-
6 tween a national fire service organization or a na-
7 tional fire safety organization and at least 1 of the
8 following:

9 “(A) An institution of higher education.

10 “(B) A minority-serving institution (de-
11 fined as an eligible institution under section
12 371(a) of the Higher Education Act of 1965
13 (20 U.S.C. 1067q(a))).

14 “(7) RESEARCH NEEDS.—Within 90 days after
15 the date of enactment of the Fire Grants Reauthor-
16 ization Act of 2009, the Director shall convene a
17 workshop of the fire safety research community, fire
18 service organizations, and other appropriate stake-
19 holders to identify and prioritize fire safety research
20 needs. The results of the workshop shall be made
21 public, and the Director shall consider such results
22 in making awards under this section.

23 “(d) DEFINITIONS.—In this section, the following
24 definitions apply:

1 “(1) CAREER FIRE DEPARTMENT.—The term
2 ‘career fire department’ means a firefighting depart-
3 ment that has an all professional force of fire-
4 fighting personnel.

5 “(2) COMBINATION FIRE DEPARTMENT.—The
6 term ‘combination fire department’ means a fire-
7 fighting department that has a combined force of
8 professional and volunteer firefighting personnel.

9 “(3) DIRECTOR.—The term ‘Director’ means
10 the Director, acting through the Administrator.

11 “(4) FIREFIGHTING PERSONNEL.—The term
12 ‘firefighting personnel’ means individuals, including
13 volunteers, who are firefighters, officers of fire de-
14 partments, or emergency medical service personnel
15 of fire departments.

16 “(5) INSTITUTION OF HIGHER EDUCATION.—
17 The term ‘institution of higher education’ has the
18 meaning given such term in section 101 of the High-
19 er Education Act of 1965 (20 U.S.C. 1001).

20 “(6) VOLUNTEER, NON-FIRE SERVICE EMS AND
21 RESCUE ORGANIZATION.—

22 “(A) IN GENERAL.—The term ‘volunteer,
23 non-fire service EMS and rescue organization’
24 means a public or private nonprofit emergency
25 medical services organization that—

1 “(i) is not affiliated with a hospital;

2 “(ii) does not serve a geographic area
3 in which the Director finds that emergency
4 medical services are adequately provided by
5 a fire department; and

6 “(iii) is staffed primarily by volun-
7 teers.

8 “(B) INCLUSION.—Such term includes a
9 river rescue organization if such organization
10 otherwise meets the definition in subparagraph
11 (A).

12 “(7) VOLUNTEER FIRE DEPARTMENT.—The
13 term ‘volunteer fire department’ means a firefighting
14 department that has an all volunteer force of fire-
15 fighting personnel.

16 “(8) RIVER RESCUE ORGANIZATION.—The term
17 ‘river rescue organization’ means an organization
18 that provides emergency search and rescue services
19 to a person affected by a flood, a water-related acci-
20 dent, or another disaster for which services, includ-
21 ing water rescue and patrol, dive rescue and recov-
22 ery, emergency first response, flood recovery, or fire
23 and rescue services on the water, are required.

24 “(e) AUTHORIZATION OF APPROPRIATIONS.—

1 “(1) IN GENERAL.—There are authorized to be
2 appropriated for the purposes of this section
3 \$1,000,000,000 for each of the fiscal years 2010
4 through 2014.

5 “(2) ADMINISTRATIVE EXPENSES.—

6 “(A) IN GENERAL.—Of the funds appro-
7 priated pursuant to paragraph (1) for a fiscal
8 year, the Director may use not more than 3
9 percent of the funds to cover salaries and ex-
10 penses and other administrative costs incurred
11 by the Director to make grants and provide as-
12 sistance under this section.

13 “(B) FORMULA.—The Director shall sub-
14 tract the amount to be used for subparagraph
15 (A) from the amount appropriated pursuant to
16 paragraph (1) before making any allocations or
17 apportioning any funds under subsections (a) or
18 (c).”.

19 (b) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) from fiscal years 2003 through 2008—

22 (A) the funding appropriated for activities
23 under section 33 of the Federal Fire Prevention
24 and Control Act of 1974 declined by approxi-
25 mately 30 percent; and

1 (B) the number of fire departments receiv-
2 ing awards declined by nearly 40 percent, while
3 the number of applicants increased, resulting in
4 a reduction in applicant success rates from over
5 43 percent to just 25 percent;

6 (2) the House-passed conference report for the
7 Department of Homeland Security Appropriations
8 Act, 2010 appropriates \$390 million for activities
9 under such section 33, a decrease of over 30 percent
10 below that provided in fiscal year 2009;

11 (3) declining funding reduces the Director's
12 ability to successfully carry out the primary purpose
13 of such section, which is to protect the health and
14 safety of the public and firefighting personnel
15 throughout the Nation against fire and fire-related
16 hazards; and

17 (4) halting and reversing the decline in appro-
18 priations to ensure a high level of funding for the
19 activities under such section 33 should be a top pri-
20 ority.

21 **SEC. 3. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
22 **GRANT PROGRAM REAUTHORIZATION.**

23 Section 34 of the Federal Fire Prevention and Con-
24 trol Act of 1974 (15 U.S.C. 2229a) is amended to read
25 as follows:

1 **“SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE**
2 **GRANT PROGRAM.**

3 “(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

4 “(1) HIRING GRANTS.—

5 “(A) IN GENERAL.—The Director shall
6 make grants directly to career, volunteer, and
7 combination fire departments, in consultation
8 with the chief executive of the State in which
9 the applicant is located, for the purpose of in-
10 creasing the number of firefighters to help com-
11 munities meet industry minimum standards and
12 attain 24-hour staffing to provide adequate pro-
13 tection from fire and fire-related hazards and to
14 fulfill traditional missions of fire departments
15 that antedate the creation of the Department of
16 Homeland Security.

17 “(B) REQUIREMENTS.—

18 “(i) DURATION AND USE.—Grants
19 made under this paragraph shall be for 3
20 years and shall be used for programs to
21 hire new, additional firefighters.

22 “(ii) RETENTION.—Grant recipients
23 are required to commit to retaining for at
24 least the entire 3 years of the grant period
25 those firefighters hired under this para-
26 graph.

1 “(iii) MAXIMUM.—The portion of the
2 cost of hiring firefighters provided by a
3 grant under this paragraph may not exceed
4 80 percent of such cost for each fiscal
5 year.

6 “(C) PREFERENCE.—In awarding grants
7 under this subsection, the Director may give
8 preferential consideration to applications that
9 involve a non-Federal contribution exceeding
10 the minimums under subparagraph (B)(iii).

11 “(D) TECHNICAL ASSISTANCE.—The Di-
12 rector may provide technical assistance to
13 States, units of local government, Indian tribal
14 governments, and other public entities in fur-
15 therance of the purposes of this section.

16 “(E) VOLUNTEER ACTIVITIES ALLOWED.—
17 Notwithstanding any other provision of law, any
18 firefighter hired with funds provided under this
19 subsection shall not be discriminated against
20 for, or be prohibited from, engaging in volun-
21 teer activities in another jurisdiction during off-
22 duty hours.

23 “(F) COMPETITIVE BASIS.—The Director
24 shall award all grants under this section on a

1 competitive basis through a neutral peer review
2 process.

3 “(G) SET ASIDE.—

4 “(i) IN GENERAL.—At the beginning
5 of the fiscal year, the Director shall set
6 aside 10 percent of the funds made avail-
7 able for carrying out this paragraph for
8 departments with majority volunteer or all
9 volunteer personnel.

10 “(ii) TRANSFER.—After awards have
11 been made, if less than 10 percent of the
12 funds made available for carrying out this
13 paragraph are not awarded to departments
14 with majority volunteer or all volunteer
15 personnel, the Director shall transfer from
16 funds made available for carrying out this
17 paragraph to funds made available for car-
18 rying out paragraph (2) an amount equal
19 to the difference between the amount that
20 is provided to such fire departments and
21 10 percent.

22 “(2) RECRUITMENT AND RETENTION
23 GRANTS.—

24 “(A) IN GENERAL.—In addition to any
25 amounts transferred under paragraph

1 (1)(G)(ii), the Director shall direct at least 10
2 percent of the total amount of funds made
3 available under this section annually to a com-
4 petitive grant program for the recruitment and
5 retention of volunteer firefighters who are in-
6 volved with or trained in the operations of fire-
7 fighting and emergency response.

8 “(B) ELIGIBILITY.—Eligible entities shall
9 include volunteer or combination fire depart-
10 ments and organizations on a local, statewide,
11 or national basis that represent the interests of
12 volunteer firefighters.

13 “(b) APPLICATIONS.—

14 “(1) IN GENERAL.—No grant may be made
15 under this section unless an application has been
16 submitted to, and approved by, the Director.

17 “(2) CONTENTS.—An application for a grant
18 under this section shall be submitted in such form
19 and contain such information and assurances as the
20 Director may prescribe.

21 “(3) REQUIREMENTS.—At a minimum, each
22 application for a grant under this section shall—

23 “(A) explain the applicant’s inability to ad-
24 dress the need without Federal assistance;

1 “(B) in the case of a grant under sub-
2 section (a)(1), explain how the applicant plans
3 to meet the requirements of subparagraphs
4 (B)(ii) and (E) of such subsection;

5 “(C) specify long-term plans for retaining
6 firefighters following the conclusion of Federal
7 support provided under this section; and

8 “(D) provide assurances that the applicant
9 will, to the extent practicable, seek, recruit, and
10 hire members of racial and ethnic minority
11 groups and women in order to increase their
12 ranks within firefighting.

13 “(c) LIMITATION ON USE OF FUNDS.—

14 “(1) SUPPLEMENT, NOT SUPPLANT.—Funds
15 made available under this section to fire depart-
16 ments for salaries and benefits to hire new, addi-
17 tional firefighters shall not be used to supplant State
18 or local funds, or, in the case of Indian tribal gov-
19 ernments, funds supplied by the Bureau of Indian
20 Affairs, but shall be used to increase the amount of
21 funds that would, in the absence of Federal funds
22 received under this section, be made available from
23 State or local sources, or in the case of Indian tribal
24 governments, from funds supplied by the Bureau of
25 Indian Affairs.

1 “(2) REPLACEMENT FUNDING PROHIBITED.—

2 No grant shall be awarded pursuant to this section
3 to a municipality or other recipient whose annual
4 budget at the time of the application for fire-related
5 programs and emergency response has been reduced
6 below 80 percent of the average funding level in the
7 3 years prior to the date of application.

8 “(3) INDIAN COST-SHARE.—Funds appro-
9 priated by the Congress for the activities of any
10 agency of an Indian tribal government or the Bu-
11 reau of Indian Affairs performing firefighting func-
12 tions on any Indian lands may be used to provide
13 the non-Federal share of the cost of programs or
14 projects funded under this section.

15 “(d) WAIVER.—In exceptional circumstances, the Di-
16 rector may waive the requirements of subsections
17 (a)(1)(B)(ii), (a)(1)(B)(iii), (c)(1), and (c)(2) if the Direc-
18 tor determines that the jurisdiction is facing demonstrated
19 economic hardship in accordance with section 33(a)(8).

20 “(e) PERFORMANCE EVALUATION.—The Director
21 may require a grant recipient to submit any information
22 the Director considers reasonably necessary to evaluate
23 the program.

24 “(f) SUNSET; REPORTS.—

1 “(1) SUNSET.—The authority under this sec-
2 tion to make grants shall lapse at the end of the 10-
3 year period that begins on the date of enactment of
4 the Fire Grants Reauthorization Act of 2009.

5 “(2) REPORT.—Not later than 6 years after
6 such date of enactment, the Director shall submit to
7 Congress a report concerning the experience with,
8 and effectiveness of, such grants in meeting the ob-
9 jectives of this section. The report may include any
10 recommendations the Director may have for amend-
11 ments to this section and related provisions of law.

12 “(g) REVOCATION OR SUSPENSION OF FUNDING.—
13 If the Director determines that a grant recipient under
14 this section is not in substantial compliance with the terms
15 and requirements of an approved grant application sub-
16 mitted under this section, the Director may revoke or sus-
17 pend funding of that grant, in whole or in part.

18 “(h) ACCESS TO DOCUMENTS.—

19 “(1) IN GENERAL.—The Director shall have ac-
20 cess for the purpose of audit and examination to any
21 pertinent books, documents, papers, or records of a
22 grant recipient under this section and to the perti-
23 nent books, documents, papers, or records of State
24 and local governments, persons, businesses, and
25 other entities that are involved in programs,

1 projects, or activities for which assistance is pro-
2 vided under this section.

3 “(2) APPLICATION.—Paragraph (1) shall apply
4 with respect to audits and examinations conducted
5 by the Comptroller General of the United States or
6 by an authorized representative of the Comptroller
7 General.

8 “(i) DEFINITIONS.—In this section, the term—

9 “(1) ‘Director’ means the Director, acting
10 through the Administrator;

11 “(2) ‘firefighter’ has the meaning given the
12 term ‘employee in fire protection activities’ under
13 section 3(y) of the Fair Labor Standards Act of
14 1938 (29 U.S.C. 203(y)); and

15 “(3) ‘Indian tribe’ means a tribe, band, pueblo,
16 nation, or other organized group or community of
17 Indians, including an Alaska Native village (as de-
18 fined in or established under the Alaska Native
19 Claims Settlement Act (43 U.S.C. 1601 et seq.)),
20 that is recognized as eligible for the special pro-
21 grams and services provided by the United States to
22 Indians because of their status as Indians.

23 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for the purposes of car-

1 rying out this section \$1,194,000,000 for each of the fiscal
2 years 2010 through 2014.”.

3 **SEC. 4. STUDY AND REPORT.**

4 (a) STUDY AND REPORT ON ASSISTANCE TO FIRE-
5 FIGHTERS GRANT PROGRAM.—

6 (1) STUDY.—The Administrator of the United
7 States Fire Administration, in conjunction with the
8 National Fire Protection Association, shall conduct a
9 study to—

10 (A) define the current roles and activities
11 associated with the fire services on a national,
12 State, regional, and local level;

13 (B) identify the equipment, staffing, and
14 training required to fulfill the roles and activi-
15 ties defined under subparagraph (A);

16 (C) conduct an assessment to identify gaps
17 between what fire departments currently pos-
18 sess and what they require to meet the equip-
19 ment, staffing, and training needs identified
20 under subparagraph (B) on a national and
21 State-by-State basis; and

22 (D) measure the impact of the grant pro-
23 gram under section 33 of the Federal Fire Pre-
24 vention and Control Act of 1974 (15 U.S.C.
25 2229) in—

- 1 (i) meeting the needs of the fire serv-
2 ices identified in the report submitted to
3 Congress under section 3603(a) of the
4 Ronald W. Reagan National Defense Au-
5 thorization Act for Fiscal Year 2005; and
6 (ii) filling the gaps identified under
7 subparagraph (C).

8 (2) REPORT.—Not later than 2 years after the
9 date of enactment of this Act, the Administrator
10 shall submit to Congress a report on the findings of
11 the study described in paragraph (1).

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Administrator of
14 the United States Fire Administration a total of \$300,000
15 for fiscal years 2010 and 2011 to carry out subsection
16 (a).

17 **SEC. 5. NATIONAL VOLUNTARY CONSENSUS STANDARDS.**

18 (a) SURVEY BY THE DEPARTMENT OF HOMELAND
19 SECURITY.—

20 (1) IN GENERAL.—Not later than 120 days
21 after the date of enactment of this Act, the Sec-
22 retary of Homeland Security, in consultation with
23 the Task Force established under subsection (b),
24 shall begin to conduct a survey of each career fire
25 department, volunteer fire department, and combina-

1 tion fire department located in the United States in
2 order to ascertain whether each fire department is in
3 compliance with the national voluntary consensus
4 standards for staffing, training, safe operations, per-
5 sonal protective equipment, and fitness.

6 (2) CONTENTS.—In carrying out the survey,
7 the Secretary shall ascertain, for each fire depart-
8 ment in the United States, the rates of compliance
9 with each such standard of—

10 (A) career fire departments, volunteer fire
11 departments, and combination fire departments;

12 (B) fire departments located in commu-
13 nities of varying sizes; and

14 (C) fire departments in each of the States.

15 (3) REPORT.—Not later than 2 years after the
16 date of enactment of this Act, the Secretary shall
17 submit to Congress a summary of the findings of the
18 survey required under paragraph (1), including the
19 rates of compliance under the categories specified
20 under subparagraphs (A), (B), and (C) of paragraph
21 (2).

22 (b) ESTABLISHMENT OF TASK FORCE TO ENHANCE
23 FIREFIGHTER SAFETY.—

24 (1) ESTABLISHMENT.—Not later than 60 days
25 after the date of enactment of this Act, the Sec-

1 retary shall establish a task force to be known as the
2 “Task Force to Enhance Firefighter Safety” (in this
3 section referred to as the “Task Force”).

4 (2) MEMBERSHIP.—

5 (A) IN GENERAL.—The Secretary shall ap-
6 point members of the Task Force from among
7 the general public and shall include—

8 (i) representatives of national organi-
9 zations representing firefighters and fire
10 chiefs;

11 (ii) individuals representing stand-
12 ards-setting and accrediting organizations,
13 including representatives from the vol-
14 untary consensus codes and standards de-
15 velopment community; and

16 (iii) other individuals as the Secretary
17 determines to be appropriate.

18 (B) REPRESENTATIVES OF OTHER DE-
19 PARTMENTS AND AGENCIES.—The Secretary
20 may invite representatives of other departments
21 and agencies of the United States that have an
22 interest in the fire service to participate in the
23 meetings and other activities of the Task Force.

24 (C) NUMBER; TERMS OF SERVICE; PAY
25 AND ALLOWANCES.—The Secretary shall deter-

1 mine the number, terms of service, and pay and
2 allowances of members of the Task Force ap-
3 pointed by the Secretary, except that a term of
4 service of any such member may not exceed 2
5 years.

6 (3) RESPONSIBILITIES.—The Task Force
7 shall—

8 (A) consult with the Secretary to conduct
9 the survey required under subsection (a); and

10 (B) develop a plan to enhance firefighter
11 safety by increasing fire department compliance
12 with national voluntary consensus standards for
13 staffing, training, safe operations, personal pro-
14 tective equipment, and fitness, including by—

15 (i) reviewing and evaluating the report
16 required under subsection (a) to determine
17 the extent of and barriers to achieving
18 compliance with national voluntary con-
19 sensus standards among fire departments;
20 and

21 (ii) considering ways in which the
22 Federal Government, States, and localities
23 can promote or encourage fire departments
24 to comply with national voluntary con-
25 sensus standards.

1 (4) REPORT TO CONGRESS.—Not later than 6
2 months after the date on which the Secretary sub-
3 mits the report required under subsection (a)(3), the
4 Task Force shall submit to Congress and the Sec-
5 retary a report containing the findings and rec-
6 ommendations of the Task Force together with the
7 plan described in paragraph (3)(B).

8 (c) DEFINITIONS.—

9 (1) IN GENERAL.—The terms used in this sec-
10 tion that are defined in sections 4, 33, or 34 of the
11 Federal Fire Prevention and Control Act of 1974
12 shall have the meaning given such terms in such
13 Act.

14 (2) NATIONAL VOLUNTARY CONSENSUS STAND-
15 ARDS.—For the purposes of this section, the term
16 “national voluntary consensus standards” means the
17 latest edition of the national voluntary consensus
18 standards for firefighter and fire department staff-
19 ing, training, safe operations, personal protective
20 equipment, and fitness available on the date of the
21 enactment of this Act.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Secretary of
24 Homeland Security such sums as may be necessary to

1 carry out this section for each of fiscal years 2010 through
2 2013.

3 **SEC. 6. PROHIBITION ON EARMARKS.**

4 None of the funds appropriated to carry out the
5 amendments made by this Act may be used for a congres-
6 sional earmark as defined in clause 9, of Rule XXI of the
7 rules of the House of Representatives of the 111th Con-
8 gress.

Passed the House of Representatives November 18,
2009.

Attest:

Clerk.

11TH CONGRESS
1ST Session

H. R. 3791

AN ACT

To amend sections 33 and 34 of the Federal Fire
Prevention and Control Act of 1974, and for
other purposes.